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Attorneys for Defendant  
COMCAST INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DANIEL KEATING-TRAYNOR on  
behalf of himself and all others similarly  
situated;

Plaintiffs,

vs.

AC SQUARE INC.; COMCAST INC.;  
AFSHIN GHANEH; ANDREW  
BAHMANYAR; AND DOES 1-60  
INCLUSIVE;

Defendants.

Case No. CV-08-2907-MHP

**DEFENDANT COMCAST INC.'S NOTICE  
OF MOTION AND MOTION TO DISMISS  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT**

**FRCP Rule 12(B)(6)**

Date: September 15, 2008  
Time: 2:00 p.m.  
Courtroom: 15  
Judge: Honorable Marilyn H. Patel

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 15, 2008, at 2:00 p.m., or as soon thereafter  
as the matter may be heard in Courtroom 15 of the above-entitled Court, located at 450 Golden  
Gate Avenue, San Francisco, California 94102, Defendant Comcast Inc. (hereinafter "Comcast")

1 or “Defendant”) will and hereby moves this Court to dismiss Plaintiff Daniel Keating-Traynor’s  
2 (“Plaintiff”) First Amended Complaint against Comcast, pursuant to Federal Rule of Civil  
3 Procedure 12(b)(6).

4 Plaintiff’s First Claim for Violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et*  
5 *seq.* (hereinafter “FLSA”) and Second Claim for Conspiracy to Violate the FLSA both fail to  
6 state a claim upon which relief can be granted because his claims are time-barred by the  
7 maximum three-year statute of limitations. Leave to amend would be futile because the  
8 allegations in Plaintiff’s First Amended Complaint conclusively demonstrate that Plaintiff would  
9 not be able to state viable claims under these theories.

10 This motion is based on this Notice of Motion and Motion, the Memorandum of Points  
11 and Authorities, the Request for Judicial Notice, and the pleadings and papers previously filed.

13 MORGAN, LEWIS & BOCKIUS LLP  
14 DARYL S. LANDY  
15 ANN MARIE REDING

16 Dated: August 11, 2008

17 By /s/ Ann Marie Reding  
18 Daryl S. Landy  
19 Ann Marie Reding  
20 Attorneys for Defendant  
21 COMCAST INC.  
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